IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE C.N.RAMACHANDRAN NAIR

THURSDAY, THE 20TH SEPTEMBER 2007 / 29TH BHADRA 1929

WP(C).No. 3811 of 2007(D)

OA.214/2001 of DEBT RECOVERY TRIBUNAL, ERNAKULAM

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PETITIONER:

S.RAJEEV, S/O.K.S.PILLA,
29/182A, MARAKKAM PARAMBIL HOUSE,
KOTTOOLI P.O., KOZHIKODE.

BY ADV. SRI.V.R.KESAVA KAIMAL
SRI.N.M.MADHU
SMT.C.S.RAJANI

RESPONDENTS:

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1. THE MANAGER, SOUTH INDIAN BANK LTD,
MAIN BRANCH, GANGA TOWERS, M.M.ALI ROAD,
KOZHIKODE-673 004.

2. BIJU.M., S/O.KUNHIKRISHNAN NAIR.T.,
RESIDING AT KALLANGIRALIL HOUSE,
PADINHATTUMURI P.O., KAKKODI,
KOZHIKODE DISTRICT.

BY ADV. SRI.K.PRABHAKARAN, SC,SOUTH INDIAN BANK

THIS WRIT PETITION (CIVIL) HAVING COME UP FOR ADMISSION ON 20/09/2007, ALONG WITH WPC NO. 21496 OF 2007 THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

C.N.RAMACHANDRAN NAIR, J.

WP(C) Nos. 3811 & 21496 of 2007

Dated, this the 20th day of September, 2007

J U D G M E N T

Both writ petitions are filed by the same person, who is defaulter for the loan availed from the 1st respondent Bank. Even though the liability is above Rs. 18 lakhs, petitioner's property was sold for Rs. 2 lakhs on 16/11/2006. Second respondent purchased the property and got the Kudiyidappu shifted on payment of compensation of Rs. 2 lakhs. According to the second respondent he has already made investment of around Rs. 1 lakh in the property and he is given delivery of the property in April 2007. However, it is seen that petitioner had challenged the sale by filing WP(C) No. 3811/2007 on 02/02/2007 itself. Since the property is above one acre of land and the sale price is only Rs. 2 lakhs, I feel, sale should be interfered with not only in the interest of the petitioner but to protect the interest of the 1st respondent Bank, which is to recover a further sum of Rs. 16 lakhs towards balance loan from the very same petitioner. Simultaneously 2nd respondent is entitled to compensation besides refund of purchase price paid. In the circumstances, this writ petition is disposed of directing

petitioner to give a Demand Draft for Rs. 5 lakhs to the 2nd respondent within one month from today and if Demand Draft is paid, sale will stand set aside with liberty to the 1st respondent Bank to proceed against the very same property in recovery proceeding for recovering balance of the very same loan, if petitioner does not settle liability due to the Bank. Bank is also directed to grant some incentives or rebates to the petitioner, if petitioner offers settlement within a reasonable time by sale of property or otherwise. If petitioner does not make payment, the writ petitions filed will stand dismissed and 2nd respondent is entitled to retain the property.

(C.N.RAMACHANDRAN NAIR, JUDGE)

jg